PROPOSAL EVALUATION WORKSHEET (CONSENSUS)

EVALUATION FACTOR: LEGAL (PASS/FAIL)

PROPOSER: Massachusetts Bay Commuter Railroad Company

DATE: August 19, 2013

CONSENSUS RATING: Pass

NARRATIVE SUMMARY: MBCR has presented evidence showing that it is a legally constituted entity, and has submitted all of the forms required under the Legal Pass/Fail evaluation criteria.

Objective:

The objective of the Legal Pass/Fail Evaluation Factor is to identify legally constituted Proposers able to submit Proposals, enter into the Contract and perform the scope of services and that have obtained all required licenses or committed to do so prior to award of the Contract.

Evaluation Criteria:

The Proposer has presented additional and updated evidence showing that it is a legally constituted entity able to submit a Proposal and enter into and perform the Contract, and that the Proposer has obtained any certificates and licenses required by the RFP.

Instructions:

Evaluators must rate each requirement identified in the following table as either "Pass" or "Fail" and record the rating in the associated Rating column. A rating of "Pass" indicates that the Proposer provided sufficient information outlined in the Requirement column to identify itself as a legally constituted Proposer able to submit a responsive Proposal and enter into the Contract and perform under the Contract. A rating of "Fail" indicates that the Proposer did not provide sufficient information outlined in the Requirement column to identify itself as a legally constituted Proposer able to submit a responsive Proposal and enter into the Contract and perform under the Contract. A detailed explanation of why a particular rating was given to a requirement must be recorded in the associated Comments/Justification for Rating column. The Appendix B Section column identifies relevant sections of Appendix B (Operations

and Management Proposal Instructions) to the Instructions to Proposers. Please note that all references to "Appendix D" are to Appendix D to the Instructions to Proposers.

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Requirement No.	Appendix B Section	Requirement	Pass	Fail	Comments/Justification
1.	B2.2(A)	Form of Proposal (see Appendix D (Forms)): 1. Form of Proposal must constitute a firm offer to the MBTA valid for 180 calendar days after the Proposal Due Date; and 2. Form of Proposal must be executed by the Proposer or by its legally authorized representative, and by each Joint Venture (JV) or Limited Liability Company (LLC) member or general partner (as applicable) by their respective legally authorized representatives, if that JV, LLC or partnership has been specifically created for the purposes of proposing on this Contract.	**Pass**		**A Form of Proposal, agreeing that the Proposal will remain valid for 180 calendar days following the Proposal due date, has been submitted by MBCR. It has been signed by MBCR (notarized 8/1/13), Veolia (notarized 8/1/13), Bombardier (notarized 7/31/13) and ACI (notarized 8/1/13). In each case it was executed by a legally authorized representative of the entity.**
2.	B2.2(B)	Form NS (Named Subcontractors and Suppliers) (see Appendix D (Forms)): 1. Form NS must include the percentage of the proposed Contract Price that represents anticipated Subcontractor and Supplier participation (not specific dollar value of participation); and 2. Form NS includes references for each named subcontractor's or supplier's two most recent contracts. (Note to Evaluators: Evaluators should contact the references named in Form NS).	**Pass**		**Form NS (Named Subcontractors and Suppliers) was provided by MBCR. For thirty-five separate subcontractors/suppliers, the form includes percentage of proposed contract price (except where dependent upon MBTA approval of a particular Plan) and references for two most recent contracts.**

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Requirement No.	Appendix B Section	Requirement	Pass	Fail	Comments/Justification
3.	B2.2(C)	Evidence that the Proposer is chartered in the Commonwealth of Massachusetts or holds a Foreign Corporation Certificate, regardless of whether such certificate was submitted with the Proposer's Statement of Qualifications.	**Pass**		**MBCR has submitted a 7/8/13 certification from Secretary of the Commonwealth (William Francis Galvin) that a "Foreign Limited Liability Company" was registered on 10/9/02.**
4.	B2.2(D)	A notarized Power of Attorney naming the individual who signed the Proposal on the Proposer's behalf as its attorney-in-fact, with authority to execute and deliver the Proposal, any Clarifications and the Contract on the Proposer's behalf and to act for and bind the Proposer in all matters relating to the Proposal. If the individual who signed the Proposal on the Proposer's behalf is an officer of the Proposer, a Power of Attorney is not required. If the Proposer is a JV, LLC or partnership that has been specifically created for the purposes of proposing on this Contract, it shall also submit the following: 1. Evidence that each member of the JV, LLC or partnership will be jointly and severally liable for any and all of the duties and obligations, including performance, of the Proposer assumed under the Proposal and under any Contract arising therefrom, should its Proposal be accepted by the MBTA; and	**Pass**		**A notarized Power of Attorney was provided for each firm:** • **For MBCR, naming Ronald J. Hartman. It was signed by James O'Leary (Chairman, Board of Directors) and notarized on 7/15/13.** • **For ACI, naming James F. O'Leary. It was signed by James O'Leary (President) and notarized on 7/2/13.** • **For Bombardier Transit Corp., naming 5 individuals (Byrne, Martin, Turgeon, Bouchard, Faber). It was signed and notarized on 7/17/13.** • **For Veolia Transportation, Inc., naming Ronald J. Hartman. It was signed by Mark Joseph (President) and notarized 7/7/13.** **A "Members' Statement of Joint and Several Liability" was also provided and signed by Veolia, Bombardier and ACI on 7/15/13.**

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Requirement No.	Appendix B Section	Requirement	Pass	Fail	Comments/Justification
		2. A notarized Power of Attorney executed by each JV member, LLC member or general partner, naming the individual who signed the Proposal and joint and several liability document on its behalf as its attorney-in-fact, with authority to execute the Proposal, joint and several liability document and Contract on its behalf and to act for and bind it in all matters relating to the Proposal.			
5.	B2.2(E)	A disclosure of any potential organizational conflicts of interest, as further set out in Section 5.3 (Ineligible Firms and Organizational Conflicts of Interest) to the Instructions to Proposers, including disclosure of all relevant facts concerning any past, present or currently planned interests which may present an organizational conflict of interest. The disclosure must state how the Proposer's interests, or those of its chief executives, directors, key personnel or any proposed subcontractors may result in, or could be viewed as, an organizational conflict of interest. If the MBTA determines that an actual or potential conflict of interest exists that cannot be avoided, neutralized or mitigated, that Proposer will not be eligible for award of the Contract.	**Pass**		**A disclosure statement was provided, stating that no actual or potential organizational conflicts of interest exist in, or with respect to, the submission of the Proposal.**

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6.	B2.2(F)	Certification of Restrictions on Lobbying (see Appendix D (Forms)): certifying that no federal appropriated funds have been or will be paid for lobbying activities and that no other funds have been paid or will be paid to influence governmental decisions regarding the Contract.	**Pass**		**The Certification Form is attached, dated 7/3/13 and signed by Ronald J. Hartman (Director).**
7.	B2.2(G)	Certification Regarding Debarment, Suspension and Other Ineligibility and Voluntary Exclusion from Transactions Financed in Part by the U.S. Government (see Appendix D (Forms)): certifying that neither the Proposer nor any of its principals is excluded or disqualified from participating in this transaction.	**Pass**		**The Certification Form is attached, dated 7/3/13 and signed by Ronald J. Hartman (Director).**
8.	B2.2(H)	Buy America Certification (see Appendix D (Forms)): certifying compliance with the Federal Transit Administration's Buy America requirements	**Pass**		**The Certification Form is attached, dated 7/3/13 and signed by Ronald J. Hartman (Director).**
9.	B2.2(I)	Affidavit of Non-Collusion (see Appendix D (Forms)): certifying that the Proposal was made without collusion.	**Pass**		**The Affidavit is attached, signed by Ronald J. Hartman (Director) and notarized on 7/10/13.**
10.	B2.2(J)	Certification of Compliance with Regulation 102 CMR 12.00 (see Appendix D (Forms)): certifying that the Proposer is in compliance with Section 7 of Chapter 521 of the Acts of 1990, as amended by Chapter 329 of the Acts of 1991, and the regulations issued pursuant thereto.	**Pass**		**The Certification Form is attached, dated 7/3/13 and signed by Ronald J. Hartman (Director).**

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Requirement No.	Appendix B Section	Requirement	Pass	Fail	Comments/Justification
11.	B2.2(K)	Certification regarding Companies Doing Business With or in Northern Ireland (see Appendix D (Forms)): certifying to certain information regarding business practices in Northern Ireland, pursuant to Pursuant to M.G.L. c.7, §§22C-F.	**Pass**		**The Certification Form is attached, dated 7/3/13 and signed by Ronald J. Hartman (Director).**
12.	B2.2(L)	Confidential Information Agreement (see Appendix D (Forms)): agreeing to the maintenance and non-disclosure of certain confidential information during this procurement.	**Pass**		**The Certification Form is attached, dated 7/3/13 and signed by Ronald J. Hartman (Director).**
13.	B2.2(M)	Conflict of Interest Certification (see Appendix D (Forms)): certifying to compliance with Massachusetts Conflict of Interest Laws, G.L. c. 268A.	**Pass**		**The Certification Form is attached, dated 7/3/13 and signed by Ronald J. Hartman (Director).**
14.	B2.2(N)	MBTA Retiree Certification (see Appendix D (Forms)): certifying to notification of the MBTA if an MBTA retiree has been included as a member of the Proposer's team.	**Pass**		**The Certification Form is attached, dated 7/3/13 and signed by Ronald J. Hartman (Director). Two MBTA retirees are listed.**
15.	B2.2(O)	Prohibit Use of Undocumented Workers Certification (see Appendix D (Forms)): certifying that the Proposer is not knowingly using undocumented workers in connection with the performance of all Executive Branch contracts; that pursuant to federal requirements, the Proposer will verify the immigration status of all workers assigned to such contracts without engaging in unlawful discrimination; and that the Proposer will not knowingly or recklessly alter, falsify or accept altered or falsified documents from any such worker(s).	**Pass**		**The Certification Form is attached, dated 7/3/13 and signed by Ronald J. Hartman (Director).**

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Requirement No.	Appendix B Section	Requirement	Pass	Fail	Comments/Justification
16.	B2.2(P)	Right-of-Way Safety Requirements Certification (see Appendix D (Forms)): certifying that the Proposer will be in full compliance with the MBTA Right-of-Way Safety Awareness Training Requirements as stated in the Operating Agreement.	**Pass**		**The Certification Form is attached, dated 7/3/13 and signed by Ronald J. Hartman (Director).**
17.	B2.2(Q)	Right-to-Know Law Certification (see Appendix D (Forms)): certifying to compliance with the Massachusetts Right-to-Know Law, Chapter 470 of the Acts of 1983.	**Pass**		**The Certification Form is attached, dated 7/3/13 and signed by Ronald J. Hartman (Director).**
18.	B2.2(R)	Security Requirements Certification (see Appendix D (Forms)): certifying to compliance with the MBTA's Security Requirements as stated in the Operating Agreement.	**Pass**		**The Certification Form is attached, dated 7/3/13 and signed by Ronald J. Hartman (Director).**

Evaluators #1 and #5

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